

By: Whitmire

S.B. No. 669

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the manner in which a bail bond or personal bond is
3 forfeited and circumstances under which a final judgment of
4 forfeiture may be reformed.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article 22.02, Code of Criminal Procedure, is
7 amended to read as follows:

8 Art. 22.02. MANNER OF TAKING A FORFEITURE. Bail bonds and
9 personal bonds are forfeited in the following manner: The name of
10 the defendant shall be called distinctly at the courthouse door,
11 and if the defendant does not appear within a reasonable time after
12 such call is made, judgment shall be entered that the State of Texas
13 recover of the defendant the amount of money in which the defendant
14 ~~[he]~~ is bound, and of the defendant's ~~[his]~~ sureties, if any, the
15 amount of money in which the sureties ~~[they]~~ are respectively
16 bound, and the ~~[which]~~ judgment shall state that the judgment
17 ~~[same]~~ will be made final, unless good cause be shown why the
18 defendant did not appear. A judgment may not be entered under this
19 article unless 72 hours have elapsed since the defendant's name was
20 called.

21 SECTION 2. Article 22.17, Code of Criminal Procedure, is
22 amended to read as follows:

23 Art. 22.17. SPECIAL BILL OF REVIEW. (a) Not later than two
24 years after the date a final judgment is entered in a bond

1 forfeiture proceeding, the surety on the bond may file with the
2 court a special bill of review. A special bill of review may
3 include a request, on equitable grounds, that the final judgment be
4 reformed and that all or part of the bond amount be remitted to the
5 surety, after deducting the costs of court and~~[7]~~ any reasonable
6 costs to the county for the return of the principal to that
7 jurisdiction~~[7, and the interest accrued on the bond amount from the~~
8 ~~date of forfeiture]~~. The court in its discretion may grant or deny
9 the bill in whole or in part.

10 (b) In determining whether to grant a request for a
11 reformation of the final judgment and a remittance under this
12 article, the court shall consider that the purpose of a bail bond is
13 to secure the presence of the principal for the disposition of
14 criminal charges and that a bail bond is not:

- 15 (1) a punishment;
16 (2) a substitute for a fine; or
17 (3) a method for generating revenue for a governmental
18 entity.

19 (c) In determining the amount of a remittance granted under
20 this article, the court may consider any of the following:

- 21 (1) the state's cost or inconvenience in regaining
22 custody of the principal;
23 (2) the impact of the delay caused by the principal's
24 failure to appear;
25 (3) the degree to which the principal intended to
26 breach the conditions of bond;
27 (4) the public interest in ensuring the principal's

1 appearance;

2 (5) any prejudice suffered by the state;

3 (6) any evidence introduced in a proceeding under this
4 article that was not introduced during the trial held under Article
5 22.14 and that would have exonerated the defendant and the
6 defendant's surety from liability under Article 22.13;

7 (7) the participation of the surety in the rearrest of
8 the principal; or

9 (8) any other relevant factor [~~For the purposes of~~
10 ~~this article, interest accrues on the bond amount from the date of:~~

11 ~~(1) forfeiture to the date of final judgment in the~~
12 ~~same manner and at the same rate as provided for the accrual of~~
13 ~~prejudgment interest in civil cases; and~~

14 ~~(2) final judgment to the date of the order for~~
15 ~~remittitur at the same rate as provided for the accrual of~~
16 ~~postjudgment interest in civil cases].~~

17 SECTION 3. The change in law made by this Act to Article
18 22.02, Code of Criminal Procedure, applies only to a bail bond or
19 personal bond executed on or after the effective date of this Act.
20 A bail bond or personal bond executed before the effective date of
21 this Act is governed by the law in effect when the bond was
22 executed, and the former law is continued in effect for that
23 purpose.

24 SECTION 4. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

S.B. No. 669

1 Act takes effect September 1, 2013.